



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: FOO - 177835

PRELIMINARY RECITALS

Pursuant to a petition filed on November 9, 2016, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Sheboygan County Department of Human Services regarding FoodShare benefits (FS), a hearing was held on January 5, 2017, by telephone.

The issue for determination is whether the Sheboygan County Department of Health Services correctly determined the Petitioner's FoodShare allotment effective October 1, 2016.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703

By: [REDACTED] Economic Support Supervisor
Sheboygan County Department of Human Services
3620 Wilgus Ave.
Sheboygan, WI 53081

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Sheboygan County.

2. On August 22, 2016, the agency sent the Petitioner a notice, indicating, effective October 1, 2016, her FoodShare benefits would be reduced from \$194.00 per month to \$16.00 per month. (Exhibit 5)
3. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on November 9, 2016. (Exhibit 1)
4. Petitioner is a household of one and considered a disabled (EBD) household. (Exhibit 4)
5. Petitioner receives \$1,336.90 per month in Social Security Income, out of which she pays a Medicare Part B premium of \$104.90 per month. (Testimony of Petitioner; Exhibit 4)
6. Petitioner also receives \$10.00 per month in, in kind work/income. (Testimony of Petitioner)
7. Petitioner pays rent in the amount of \$290.00 per month and she incurs a heating expense. (Testimony of Petitioner; Exhibit 5)

DISCUSSION

Once a household passes the gross income test, the following deductions are applied in determining the household's net income, which in turn, is used to determine the FoodShare allotment:

- (1) a standard deduction –

This is \$157 per month for a household of 1-3 people, 7 *CFR* § 273.9(d)(1):
 \$168 for four people
 \$197 for five people
 \$226 for six or more people

- (2) an earned income deduction - which equals 20% of the household's total earned income, 7 *CFR* § 273.9(d)(2);

The Petitioner has \$10.00 of earned income, so should receive a \$2.00 earned income deduction.

- (3) dependent care deduction for child care expenses, 7 *CFR* § 273.9(d)(4); and

The Petitioner did not report any child care expenses.

- (4) shelter and utility expenses deduction the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 *CFR* § 273.9(d)(5).

The standard utility allowances are as follows:

HSUA – Heating Standard Utility Allowance	\$457
LUA – Limited Utility Allowance	\$307
EUA – Electric Utility Allowance	\$123
WUA-Water and Sewer Utility Allowance	\$81
FUA- Cooking Fuel Allowance	\$35
PUA- Phone Utility Allowance	\$29
TUA – Garbage and Trash Utility Allowance	\$21

There is a cap of \$517.00 on the shelter cost deduction, *unless* a household has an elderly, blind or disabled member.

It is undisputed that the Petitioner is entitled to the full HUSA deduction of \$457.00.

FSH, §§ 4.6.7.1 and 8.1.3. Ops memo 16-25

- (5) certain medical expenses – for medical expenses exceeding \$35 in a month for an elderly or disabled person, 7 CFR § 273.9(d)(3);

The question of how much an excess medical expense is currently allowable for the Petitioner is the greatest point of contention in this case.

During the previous certification period which ended September 30, 2016, the Petitioner received an excess medical expense deduction of \$1,575.16 per month, based upon medical bills that had gone into collection. (Exhibits 4 and 8-1 through 8-5)

For the current certification period, beginning October 1, 2016, the only medical expense allowed by the agency was Petitioner's Medicare Part B Premium, and an \$11.00 bill from [REDACTED]

Petitioner submitted Exhibits 2, 3, 9 and 10, asserting that the medical bills in those exhibits should be used as excess medical expenses for the current certification period.

A medical expense can be used as a deduction when:

1. The expense was incurred either before or during the current certification period,
2. The individual is still obligated to pay the expense, AND
3. The expense was not previously allowed as a deduction for a prior certification period.

FSH 4.6.4.1 Allowable Medical Expenses

With regard to Exhibit 2, some of the bills contained in that exhibit can be allowed in a future month, but not October 2016, since the bills post-date October 2016. Those expenses will have to be treated as a change report. Exhibit 2 contained:

A payment receipt for \$10.00 dated December 7, 2016, for [REDACTED]. The agency has previously allowed similar expenses, so the \$10.00 expense will be allowed. (See Exhibit 8-1)

A bill dated December 5, 2016, for \$251.00 for dental work, reflecting a current payment of \$6.00 from [REDACTED]. It does not appear this was previously allowed, so the \$251.00 expense is allowable.

A bill dated November 3, 2016 from [REDACTED], in the amount of \$6.00 for services rendered on September 21, 2016. This is an allowable expense for the current certification period.

A bill dated December 1, 2016 from a dentist's office for \$157.00 for services rendered in October 2016. This is an allowable medical expense.

A statement from [REDACTED] dated December 5, 2016. These expenses were already allowed during the prior certification period, and so cannot be used again during the current certification period.

A receipt for payment of \$25.00 to [REDACTED] for Orthopedic services rendered in November 2016. This is an allowable expense.

A billing statement from [REDACTED] [REDACTED] [REDACTED] dated November 13, 2016, for \$171.00 for services rendered on August 26, 2015 and September 21, 2016. There is no indication that these expenses were previously allowed. As such, they are allowable expenses.

With regard to Exhibit 3, none of those bills may be used. Exhibit 3 contained:

A November 29, 2016 statement from [REDACTED]. After cross referencing that statement with the [REDACTED] Statement attached to Exhibit 9, it is clear that most of the expenses were incurred by someone other than the Petitioner, and so may not be allowed as an expense at this time. Further, the bills incurred by the Petitioner in the [REDACTED] statement were already allowed as an expense during the prior certification period, and so cannot be used again during the current certification period. (See Exhibit 8-5)

A November 29, 2016 statement from [REDACTED]. Those expenses were already allowed as a deduction during the prior certification period and so, cannot be used again during the current certification period. (See Exhibit 8-4)

A statement attributable to "professional billing". That statement does not make clear what bills are currently due and owing. There is some indication that the bills have been referred to a collection agency, but the statement does not make clear whether the payments received were through the collection agency. As such, the information is not sufficient to support a medical expense for the current certification period.

With regard to Exhibit 9, with the exception of one \$11.00 expense, none of the bills provided by the Petitioner in that exhibit may be used. (See also Exhibit 7) Exhibit 9 contains:

A spreadsheet that does not show the dates of service, the name of the patient that incurred the bill, nor whether the bill is still outstanding.

A bill from [REDACTED]. The bulk of that bill was incurred by someone other than the Petitioner. The four expenses in the [REDACTED] bill that were incurred by the Petitioner, were already allowed as expenses during the prior certification period, and so, cannot be used now. (See Exhibit 8-5)

A bill from [REDACTED], showing that it was paid in 2013. Because it is an old bill, incurred and paid off before the current certification period, it is not an allowable expense.

A bill from [REDACTED] dated January 20, 2016. These are older bills incurred prior to the current certification period. There is nothing in Exhibit 9, showing that the expenses are still due and owing. As such, these bills cannot be used, at this time.

A bill dated January 20, 2016 from [REDACTED] dated January 20, 2016. Again because this is a bill predating the current certification period, which does not show whether the expense is still due and owing, the expense cannot be allowed, at this time.

A bill from [REDACTED] for \$11.00 dated July 9, 2016. There is a notation that the bill was paid off in the prior certification and so, it cannot be used as an expense during the current certification period.

A bill from [REDACTED] for \$11.00 dated August 13, 2016. The agency allowed this expense for the month of October 2016. I will not second guess that decision.

Two bills from [REDACTED] dated June 5, 2015 and April 20, 2015. These are old bills, which do not show dates of service, nor the name of the patient that incurred the expense. There is nothing in Exhibit 9, showing that these bills are still due and owing. As such, they cannot be used as a deduction, at this time.

A bill dated May 15, 2016 for \$61.00 from [REDACTED]. Again, this is a bill incurred from before the current certification period and there is no evidence that the expense is still due and owing. As such, it may not be used as an expense during the current certification period.

A bill from [REDACTED] dated June 10, 2016, for a \$150.00 debt owed to [REDACTED]. This is a bill incurred from before the current certification period and there is no evidence in Exhibit 9, that the bill is still due and owing.

A bill from [REDACTED] for \$503.20, dated January 26, 2015. This is an old bill that does not reflect what the current debt is, if any, and so, the bill may not be used as an expense for the current certification period.

A bill from [REDACTED] dated May 26, 2015 for \$528.00. This is an old bill that does not reflect what the current debt is, if any, and so, may not be used as an expense for the current certification period.

A bill from [REDACTED] dated September 1, 2015. This is an old bill that does not reflect what the current debt is, if any, and so, may not be used as an expense for the current certification period.

A bill from [REDACTED] dated March 5, 2015, which is a duplicate of the bill mentioned above dated April 20, 2015. This is an old bill that does not reflect what the current debt is, if any, and so, may not be used as an expense for the current certification period.

Other [REDACTED] bills from 2015. These are old bills that do not reflect what the current debt is, if any, and so, may not be used as an expense for the current certification period. In addition, the bill does not list dates of service, nor the patient who incurred the expense.

With regard to Exhibit 10, that bill is dated October of 2012. Because it is not a current bill, showing that the amount is still due, the expense cannot be allowed as a deduction. So, Petitioner's Excess Medical Expense for October 2016 work out as follows:

\$104.90 Medicare Part B premium
+\$11.00 [REDACTED] Bill
-\$35.00

\$80.90 excess Medical Expense

For a future month, the Petitioner may use the following expenses:

\$104.90 Medicare Part B premium	
+\$25.00 [REDACTED] Orthopaedics	
+\$171.00 [REDACTED]	
+\$6.00 [REDACTED]	
+\$10.00 [REDACTED]	
+\$251.00 [REDACTED]	
+\$157.00 Dental	
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\$724.90 total allowable medical expenses (less \$35.00 is \$689.90)	

Applying the applicable deductions to Petitioner's income we have the following net income calculation, effective October 2016:

Gross Income	\$1346.90	Rent	\$290.00
Earned Income Deduction	-\$2.00	HSU	+\$457.00
Standard Deduction	-\$157.00	-50% net income	-\$553.50
No Medical Expenses exceeding \$35	-\$80.90	<u>before shelter deduction</u>	
No Dependent Care Expenses		Excess Shelter Expense: \$193.50	
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Net Income before shelter deduction	\$1107.00		
Excess Shelter Expense	- \$193.50		
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Net Income	\$913.50		

Households with a net income of \$913.50 are eligible for Foodshare benefits in the amount of \$16.00 per month. *FSH §8.1.2*

With regard to the expenses reported in Exhibit 2, they will have to be treated as a change report and applied to a future month.

CONCLUSIONS OF LAW

The agency correctly determined Petitioner's FoodShare allotment for October 2016. However, the Petitioner has reported some new, allowable medical expenses.

THEREFORE, it is

ORDERED

That the agency process a change report and apply the \$724.90 of allowable medical expenses in Exhibit 2, to Petitioner's FoodShare budget for the month of March 2016, if the agency has not already processed the change and allowed the expenses in a prior month. The agency shall take all administrative steps to complete this task within 10 days of this decision.

In all other respects, the petition is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 24th day of January, 2017

\s _____
Mayumi M. Ishii
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on January 24, 2017.

Sheboygan County Department of Human Services
Division of Health Care Access and Accountability